

AECO 4000.005/5050.005

MEDIATION

Denton Campus – Wooten Hall Room 212

Fall 2008

Mondays – August 25 – November 17, 2008

Inst. Leslie Roberts
8000 Coit Road #300-224
Plano, TX 75025
(469) 682-7305
leslie179@msn.com

Institute of Applied Economics
263 Chilton Hall
P. O. Box 310469
Denton, TX 76203-0469
Phone: (940) 565-3437
Fax: (940) 565-4658

ADR Studies Website: <http://www.unt.edu/aeco/adrstudies.htm>

Office Hours and student consultations: By appointment.

Required Text

Kovach, Kimberlee K. *Mediation: Principles and Practice* (St. Paul: Thomson/West, 2000.)

Suggested Texts (For those who seek further reading)

Slaikeu, Karl A. *When Push Comes to Shove: A Practical Guide to Mediating Disputes* (San Francisco: Josey Bass, 1996.)

Bush, Robert A. Baruch and Joseph P. Fogler. *The Promise of Mediation* (San Francisco: Josey Bass, 1994.)

Cloke, Kenneth. *Mediating Dangerously: The Frontiers of Conflict Resolution* (San Francisco: Josey Bass, 2001.)

Introduction

Mediation is a communication tool for resolving differences. Frequently, mediation is explained as a process that assists conflicting parties to arrive at a resolution that they find mutually acceptable. A higher goal of mediation is to help parties experience the transformative potential of mediation so that they may learn how to solve their own problems in the future. From either perspective, mediation also can be viewed as a process—i.e., mediation is a series of well-defined steps through which the mediator guides parties who are in conflict.

Mediation has a long and honorable history within society-at-large. References to the use of third-party neutrals go back to Biblical times. Likewise, mediation has been pursued in the United States since our very beginning.

As specified in Texas law, “mediation is a forum in which an impartial person, the mediator, facilitates communications between the parties to promote reconciliation, settlement, or

understanding among them. . . . A mediator may not impose his own judgment on the issues for that of the parties.” (Acts 1987, 70th Le., ch. 1121, sec. 1, eff. June 20, 1987.)

Course Description and Objectives

The mediation course defines, examines, and demonstrates the process of mediation. It covers the history and development of mediation and introduces important concepts and theories of conflict management. Also included is a review of the diverse settings in which mediation may be successful. Significant legal, ethical, and diversity issues are reviewed.

Students are introduced to the concepts and practice of mediation through lectures, discussions, presentations, case studies, and significant opportunities for role-playing exercises. Those who successfully complete this course will develop a deep understanding of how mediators think, what works in mediation, and the benefits and limitations of using various mediation techniques in alternative settings. Students who seriously pursue the in-class exercises will gain valuable experience and insight into mediation methods and techniques. Thus, class attendance, including participation in class exercises, is critical to the learning objectives.

Upon successful completion of the course, students will have gained sufficient knowledge and role-playing experience to co-mediate a two-party, small claims dispute. Those who do well in class and continue learning will soon be able to work constructively in mediating more complex conflicts. All students of mediation find that they must improve their listening, thinking, reading, and writing skills continuously to serve the needs of conflicting parties.

Mediation Thinking

This class breaks with the current practice in many college courses in that the emphasis will be on actively developing your thinking. Everything we do in this class will be designed to help you become better at thinking about mediation and its role in conflict resolution. You will not be asked to memorize information rotely. Instead, you will be required to internalize information by using it actively in every class discussion, mediation exercise, and assignment.

In each class, we will work on improving your thinking about mediation and conflict resolution. Deep learning occurs when students develop their powers to think deeply. Since a successful mediator must possess highly evolved emotional intelligence, a mediation class is a wonderful opportunity to learn about critical thinking. Active reading and listening skills are essential to this learning process.

Think of learning about mediation thinking as you would of learning a sport. To learn to play tennis, first you need to learn the fundamentals of tennis at the beginner’s level, and then you practice those fundamentals at every practice session. The same is true about learning to think well about mediation. You must first understand the fundamentals of sound mediation thinking and then regularly practice those fundamentals. To be truly proficient as a mediator, you must have a deep understanding of the principles and concepts of the subject.

The design of each class session addresses the primary purpose of helping you to develop your thinking and reasoning skills in mediation and conflict resolution. Until replaced with something more constructive, you probably will continue to draw upon the thinking about conflict that you

developed as a child. The most common outcome of that level of thinking is partially successful mediation. Much more is possible.

To mediate successfully, mediators need to understand themselves and their thinking about conflict. Mediators must learn to think clearly and deeply about conflict by investigating the many faces and nuances of conflict in their lives and the lives of others. The quality of every contribution you make to parties in mediation will be directly tied to the quality of your reasoning ability. Inevitably, the quality of your life in general will be determined by your decisions, which reflect how well you think in general.

The class will focus on practice and engaged lecture/discussion sessions. Students may be called on at random to state, elaborate, exemplify, and illustrate, in their own words, the most important points in the discussion or in an assigned reading. The intent of this strategy is to engage every student's mind on mediation and the class discussions. Thus, you are encouraged to prepare for class and listen actively during class discussions.

Your meaningful participation in mediation simulations will be a significant part of your course grade. This is your opportunity to acquire real mediation skills without risking real-life consequences. Your responsibility is to (1) let go of your current approach to conflict by challenging your ingrained assumptions about how to deal with conflict, (2) change your logic of conflict resolution by learning and perceiving a more effective approach, and (3) replace old habits with new conflict resolution skills. Engaging in hands-on exercises is a low-risk, high reward way to absorb new mediation skills. In order to achieve these goals, you must commit to full engagement in the mediation simulations.

This course will emphasize how to resolve issues and problems in the mediation of conflict and will challenge your mind to think beyond memorizing what is in the textbook. In a typical class session, you will spend considerable time in group discussions and in small group or role-playing exercises. All these activities are opportunities to practice "disciplined mediation thinking."

Course Requirements

Reading: Most reading assignments will be from the class text authored by Kimberlee Kovach, *Mediation: Principles and Practice*. Newspaper and articles from professional journals may also be distributed. A considerable amount of handout materials will be distributed throughout the semester. Students will be accountable for reading all materials assigned or distributed in class and must be prepared to discuss and analyze it. **Learning objective: Mediators are expected to be "quick readers" of written materials that parties often bring into mediation sessions.**

Group Discussions: Some class time will be spent in group discussions on theoretical and practice issues in mediation. Most of these group sessions will be led by the teacher, but students will be asked questions and must participate meaningfully. Each student is expected to make meaningful and substantial contributions to class discussions and exercises. In particular, you are expected to demonstrate the critical thinking, reasoning, and questioning skills that you will employ in actual mediation sessions. **Learning objective: Mediators must be able to listen actively to what others say and to communicate clearly their own, reasoned responses.**

Mediation Exercise: Participation in **seven exercises** is mandatory. Since a fee must be paid to a publisher (case clearinghouse) for each student involved in most exercises, a list of student participants will be kept. Failure to participate will result in appropriate reductions on final grades. Departing class early or arriving excessively late will count against the class participation portion of your grade and may also prohibit your participation in exercises. Students who are absent when a class exercise is administered cannot make it up at a later date. **Learning objective:** *Through dedicated, full engagement in mediation practice, mediators learn to replace their old, unsuccessful ways of resolving conflict with new skills.*

Quiz: Each student will individually read, analyze and answer written questions pertaining to mandatory exercise 3, *Little v. Jenks*. **Learning objective:** *Mediators must apply the skills required of a mediator.*

Group Presentation: The class will be divided into groups for presentations to the class on a specialized mediation topic. **Learning objective:** *Mediators must develop the discipline to prepare in advance of each mediation and be skilled at orally communicating complex ideas.*

Examination: The final examination will be designed to test students' knowledge and understanding of mediation principles and concepts, including the legal and ethical issues of mediation. The final exam is comprehensive, covering the entire class. **Learning objective:** *Mediators must be able to reason and remain focused under pressure.*

Grading Procedure

Grades will be determined by the following weights:

- Participation in class – 20 %
- Class exercises – 20 %
- Group presentation – 20 %
- Quiz – 20 %
- Final Exam – 20 %

If a student believes he/she will miss class over an extended period of time and may be unable to complete all assignments timely, the student should contact the instructor immediately to discuss options. **Because completion of all mandatory exercises is required, repeated absences can result in a failing grade for the course.**

Request for Grade of Incomplete

If a student wishes to request a grade of “incomplete,” the student must:

- Submit the request in writing as soon as possible during the semester.
- Submit the request to the instructor at the instructor's address above.
- Discuss the request with the instructor before or after class.

No requests will be considered later than one week prior to the final exam, UNLESS A SERIOUS INTERRUPTIVE EVENT OCCURS WITHIN THAT TIME PERIOD. It is within

the instructor's sole discretion to grant such a request. Please see the "Grading System" section of the current UNT Undergraduate or Graduate Catalog for details. STUDENTS WHO RECEIVE AN "INCOMPLETE" MUST COMPLETE THE COURSE NOT LATER THAN ONE CALENDAR YEAR THEREAFTER TO AVOID AUTOMATICALLY RECEIVING A FAILING GRADE.

ADA Accommodations

Your instructor complies with the American with Disabilities Act in making reasonable accommodations for qualified students with disabilities. If you have a qualified disability as defined in the Act and would like to request accommodation, please see the instructor by the end of the first class.

Other Resources

Among others, the following web sites provide significant background information:

<http://www.adr.org/>

<http://www.conflictresolution.org/>

<http://www.fmcs.gov/>

<http://www.mediate.com/>

<http://www.txmediator.org/>

<http://txmca.org>

Professional Certificates

NOTE: Attendance is mandatory at all class meetings, for the full class time, if you wish to receive any or all of the professional certificates in mediation, ADR, and family mediation. If you miss a class and want any of these certificates, you are required to attend the same class in the following semester to receive credit. See the instructor for more information.

Mediation Certificate: In conjunction with successful completion of AECO 4420, Practicum in Mediation, this course meets the current State of Texas requirements for court-referred mediations. In order to receive the mediation certificate, you must submit a written request to the Institute of Applied Economics.

ADR Certificate: Students who successfully complete this class, AECO 4420-Practicum in Mediation, AECO 4120-Negotiation, and 1 additional ADR course chosen from a list of approved electives (12 hours total) as specified by the Institute of Applied Economics are eligible to receive a professional ADR certificate. In order to receive the ADR certificate, you must submit a written request to the Institute of Applied Economics.

Family Mediation Certificate: A Certificate in Family Mediation is available to students who complete a total of 9 hours comprised of the following three courses: AECO 4000, AECO 4420, and AECO 4980, Family Mediation. In order to receive the family mediation certificate, you must submit a written request to the Institute of Applied Economics.

Certificate request forms are available in the departmental office in Chilton 263 or over the Internet. A separate request for each certificate is required. See the departmental web site at <http://www.unt.edu/aeco/adrstudies.htm> for more information.

Classroom Behavior and Courtesy

By its very nature, this class provides a significant amount of opportunity for students to develop and practice their mediation skills and to engage one another in role playing exercises. Students are expected to follow the role descriptions furnished with assignments, to stay in their roles, to maintain decorum and respect in class sessions, and to further the educational experiences of all concerned.

A few common courtesies will make our class time more pleasant. Class participation grades will suffer if the following violations occur:

- Beeper or cell phone interruptions
- Text messaging on cell phones
- Internet usage
- Sleeping
- Talking while others have the floor
- Reading or writing pertaining to other endeavors or courses
- Tardies and early departures

SCHEDULE of TOPICS and ASSIGNMENTS

DATE	TOPICS	ASSIGNMENTS
August 25	Overview of course; expectations Overview of ADR Universe Mandatory exercise 1 – Role Reversal	Chapter 1
September 1	NO CLASS – LABOR DAY	
September 8	Videotape of neighbors’ dispute The Mediation Process Ethical Considerations Neutrality Confidentiality	Chapter 2 Chapter 14 Chapter 9 Chapter 11
September 15	The Negotiation Process Mediator Skills Mandatory exercise 2 – Dirty Laundry Getting to the Mediation Table Preparation for the Mediation	Chapter 8 Chapter 3 Chapter 4 Chapter 5
September 22	Beginning the Mediation Identification of Issues and Interests Finding a Resolution Review past classes	Chapter 6 Chapter 7 Chapter 10
September 29	Quiz - Mandatory exercise 3 – Little v. Jenks Assign groups for presentation	
October 6	The Mediated Agreement Quality Control Mandatory exercise 4 – Neighborhood Care, Inc. Groups select topics	Chapter 12 Chapter 15
October 13	Mandatory exercise 5 – Puerile Printer Group meetings	
October 20	Specialized Applications of Mediation – Group Presentations	Chapter 16
October 27	Specialized Applications of Mediation – Group Presentations	Chapter 16

DATE	TOPICS	ASSIGNMENTS
November 3	Mandatory exercise 6 – Broken Benches Mandatory exercise 7 – Seoul Food	
November 10	Review for final exam	
November 17	Final exam	

HONESTY POLICY

Any student found to be engaging in Academic Dishonesty may receive a failing grade for this course. For purposes of this course, the following definition of Academic Dishonesty is applicable: (Taken from UNT Policy Manual- 18.1.11)

1. Academic dishonesty, includes, but is not limited to, cheating and plagiarism. The term “cheating” includes, but is not limited to:
 - a. use of any unauthorized assistance in taking quizzes, tests, or examinations;
 - b. dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
 - c. the acquisition, without permission, of tests, notes or other academic material belonging to a faculty or staff member of the university;
 - d. dual submission of a paper or project, or resubmission of a paper or project to a different class without express permission from the instructor(s); and
 - e. any other act designed to give a student an unfair advantage

2. The term “plagiarism” includes, but is not limited to:
 - a. the knowing or negligent use by paraphrase or direct quotation of the published or unpublished work of another person without full and clear acknowledgement; and
 - b. the knowing or negligent unacknowledged use of materials prepared by another person or by an agency engaged in the selling (or free distribution) of term papers or other academic materials.

Conspiring, planning, attempting, or knowingly acting as an accessory to any of the charges above; being present while the offense is committed and advising, instigating or encouraging the act; facilitating in the committing of any offense in any way is considered Academic Dishonesty.

For more information about UNT policies concerning Academic Dishonesty, see the UNT Student Code of Conduct and Discipline, available:

- In the UNT 2007-2008 Undergraduate Catalog, page 107-116; OR
- On the Internet at:

HTML Format: <http://www.unt.edu/catalog/undergrad/policies.htm>

PDF Format: http://www.unt.edu/catalog/undergrad/pdf/106_policies.pdf